

June 29, 2011

To: Mayor and Members of Council

From: Milton Dohoney, Jr., City Manager

Subject: **Requirement of Citizens to Shovel Snow from their Sidewalks**

Reference Doc. #201001384

At its session on October 12, 2010, the Livable Communities Committee referred the following item for review and report:

COMMUNICATION, dated 9/24/2010 submitted by Vice Mayor Qualls, from Sheila Lois Weiner, requesting that the citizens of Cincinnati shovel snow from their sidewalks.

Ohio Revised Code 723.011 authorizes the City of Cincinnati to require by ordinance that property owners timely remove snow and ice from abutting or adjoining sidewalks. ORC 723.011 provides:

The legislative authority of a municipal corporation, in addition to the powers conferred by sections 729.01 to 729.10, inclusive, of the Revised Code, may require, by ordinance, by the imposition of suitable penalties or otherwise, that the owners and occupants of abutting lots and lands shall keep the sidewalks, curbs, and gutters in repair and free from snow or any nuisance.

Section 723-57 of the Cincinnati Municipal Code requires property owners to timely remove snow and Section 723-59 of the Cincinnati Municipal Code requires property owners to timely remove ice, pursuant to ORC 723.011. The penalty for violating these sections is a fine of up to \$25.00.

The Ohio Supreme Court has stated that the rationale behind sidewalk snow removal ordinances is that it would be impossible for a city to clear snow and ice from all of its sidewalks and the duty imposed by such statutes is most likely a duty to assist the city in its responsibility to remove snow and ice from public sidewalks. This does not raise a duty on owners and occupiers to the public at large, and such statutes do not, as a matter of public policy, impose potential liability on owners and occupiers who have abutting public sidewalks. Of course, a different matter arises when an abutting owner or occupier is actively negligent in permitting and/or creating a dangerous or unnatural accumulation of snow and ice. In these cases, the landowners could be held liable for such negligence.

Therefore, under the relevant City ordinances, property owners are required to timely remove snow and ice accumulations. Under Ohio common law, specifically tort law and the law of negligence, property owners may be held liable for active negligence in permitting and/or creating a dangerous or unnatural accumulation of snow or ice.

cc: John Curp, City Solicitor